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Attorneys for Defendant  
Capital One Bank (USA), N.A.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA – OAKLAND

EMELIA M. PASTERNAK,  
Plaintiff,

vs.

TRANS UNION, LLC, EXPERIAN  
INFORMATION SOLUTIONS, INC.,  
EQUIFAX INFORMATION SERVICES,  
LLC, and CAPITAL ONE BANK, a  
national association,  
Defendants.

No.: CV 08-02972 CW

**AMENDED NOTICE OF  
DEFENDANT CAPITAL ONE BANK  
(USA), N.A.'S MOTION TO DISMISS  
PLAINTIFF'S COMPLAINT**

Hearing Date: September 25, 2008  
Time: 2:00 p.m.  
Courtroom: 2

Compl. Filed: June 16, 2008

Honorable Claudia Wilken

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

**TO PLAINTIFF AND HIS ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on September 25, 2008 at 2:00 p.m. in Courtroom 2 of the above-entitled court, located at 1301 Clay St., Ste. 400S, Oakland, CA 94612-5212, Defendant Capital One Bank (USA), N.A. ("Capital One") will and hereby does move the Court to dismiss Plaintiff's Complaint as it pertains to Capital One.

This motion is made on the grounds that the Plaintiff has improperly split claims and is barred from bringing this Complaint because a prior suit involves the same transaction or occurrence.

This motion is based on this Notice, the concurrently filed Memorandum of Points and Authorities, and such other evidence and argument that the Court may permit.

DATED: August 22, 2008.

REED SMITH LLP

By /s/ Veronica Kuiumdjian  
Abraham J. Colman  
Felicia Y. Yu  
Veronica Kuiumdjian  
Attorneys for Defendant  
Capital One Bank (USA), N.A.

1 **PROOF OF SERVICE**

2 I am a resident of the State of California, over the age of eighteen years,  
3 and not a party to the within action. My business address is REED SMITH LLP,  
4 355 South Grand Avenue, Suite 2900, Los Angeles, CA 90071-1514. On August 22,  
5 2008, I served the following document(s) by the method indicated below:

6 **AMENDED NOTICE OF DEFENDANT CAPITAL ONE BANK (USA), N.A.'s**  
7 **MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

- 8 ☒ On the recipients designated on the Transaction Receipt located on the CM/ECF  
9 website.
- 10 ☒ **FEDERAL: I declare that I am a member of the bar of this court at whose**  
11 **direction the service was made.**

12 ***SEE ATTACHED LIST***

13 I declare under penalty of perjury under the laws of the State of  
14 California that the above is true and correct. Executed on August 22, 2008, at  
15 Los Angeles, California.

16  
17 /s/ Veronica Kuiumdjian  
18 Veronica Kuiumdjian

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

**Service List**

*Pasternak v. Trans Union, LLC, et al.*  
 USDC, Case No.: CV 07-04980 CW

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**Service List**

*Pasternak v. Trans Union, LLC, et al.*  
 USDC, Case No.: CV 07-04980 CW

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